-

THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

-

Writ Petition No. 3557 of 2005

-

Dated: 18th August, 2005.

Between:

Mrs. Veena Dudakia @ Veena Devi Naraharibhai Pathak,

W/o. Dudakia NatuArlal, R/o. 41, Kashiviswanath Colony, Lalbagh, Vadodara, Gujarat.

..... PETITIONER

AND

1. The Union of India, Ministry of External Affairs,

New Delhi and three others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

-

Writ Petition No.3557 of 2005

ORDER:

This writ petition has been filed by Smt.Veena Dudakia @ Veena Devi Naraharibhai Pathak with a prayer to issue a writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the second respondent in not permitting her to leave India as illegal, arbitrary, and violative of Article 21 of the Constitution of India.

2. The petitioner is a non-resident Indian having residency at London. She along with her husband-Dudakia Natuarlal came to Puttaparthi on 08.11.2000 from Baroda and attended 24 hours *Bhajana* programme on 11.11.2000. She left Puttaparthi to Baroda on 12.11.2000 while her husband stayed back at Puttaparthi. Since she did not hear anything from her husband till 17.12.2000, she came to Puttaparthi and presented a report on 19.12.2000. Basing on her report, a case in Crime No.118 of 2000 was registered by the Station House Officer, Puttaparthi (U), Ananthapur District, under man missing. During investigation, the Police raised suspicion on the role of the petitioner in missing of her husband. She was summoned to the Police Station for investigation. The Deputy Superintendent of Police, R.C.C., C.I.D., Kurnool, took her passports and other documents. She approached this Court by filing W.P.No.23206 of 2004 for release of her passport. The said writ petition came to be disposed of on 28.12.2004. The relevant portion of the order passed in W.P.No.23296 of 2004 reads as follows:

> "This case presents the typical approach of the police in this. The petitioner, with immeasurable amount of agony submitted a complaint that the whereabouts of her husband are not known. The least that the police could have done was to have undertaken a search and informed her, of the result thereof. A crime was formally registered on the complaint. It is thereafter that the suffering of the petitioner started. The respondents started treating the petitioner herself as an accused. No complaint was made by anyone, suspecting the involvement of the petitioner. The counter affidavit filed on behalf of the respondents depicts a sad reflection of the entire episode. When the deponent of the counter affidavit was summoned to the Court, he said that the Passports were taken back, and a telegram was issued to the petitioner by his predecessor, namely the fourth respondent, who is said to be on sick leave. To say the least, the conduct of the officials involved in the matter, and in particular the fourth respondent, is despicable and objectionable. Having realized the illegality committed by them, the Sub-Divisional Police Officer has brought the Passports of the petitioner and they have since been handed over to the petitioner.
>
> In that view of the matter, the grievance of the petitioner stands redressed, and the writ petition is disposed of accordingly. There shall be no order as to costs."

After disposal of the above writ petition, the petitioner intending to travel to London purchased Gulf Airways International ticket. The departure was to be on 21.01.2005. During the immigration checkup, her passport and ticket were seized by the second

respondent-Immigration Officer, International Airport, at Mumbai. On enquiry she was told that a requisition was received by the second respondent from the third respondent-Deputy Superintendent of Police, RCC, CID, Kurnool not to allow her to leave India, as she was required in Crime No.118 of 2000 of Puttaparthi (U) Police Station, Ananthapur District. Assailing the action of the second respondent in not permitting her to leave for London, she has filed the present writ petition.

3. Heard learned counsel appearing for the petitioner and learned Assistant Solicitor General appearing for the respondents 1 and 2 and learned Government Pleader for Home appearing for respondents 3 and 4.

4. Learned counsel appearing for the petitioner submits that the petitioner has not been arrayed as an accused in Crime No.118 of 2000 of Puttaparthi (U) Police Station, and therefore, instructions issued by the third respondent to the second respondent not to allow her to leave India, are not legal and proper.

5. Learned Government Pleader for Home appearing for the respondents 3 and 4 submits that the petitioner has to undergo Narco Analysis Test at Gandhi Nagar, Gujarat and therefore, her presence in India is required and once she is permitted to leave for London, it would be difficult for the Investigating Agency to secure her presence. A copy of the letter addressed by the Deputy Superintendent of Police, CID, Regional Command Centre, Kurnool to the Government Pleader for Home has been placed on record.

6. As seen from the letter, the Investigating Officer in Crime No.118 of 2000 has filed a petition before the Judicial Magistrate of First Class, Penugonda on 12.08.2005 for giving summons to the petitioner to undergo Narco Analysis Test at Directorate Forensic Science Laboratory, Gandhi Nagar, Gujarat. It appears the said petition is pending consideration before the Judicial Magistrate of First Class, Penugonda. Except pendency of the above referred petition before the Judicial First Class Magistrate, Penugonda, there are no other proceedings pending against her which require her stay in India.

7. In the result, this writ petition is allowed directing the Deputy Superintendent of Police, CID, RCC, Kurnool-3rd respondent to withdraw the letter addressed to the Immigration Officer, International Airport, at Mumbai-2nd respondent, whereunder he required the second respondent not to permit the petitioner to leave India. However, this direction is subject to the out come of the Crl.M.P. pending on the file of the Judicial Magistrate of First Class, Penugonda. In case the said petition is allowed, the petitioner has to necessarily stay in India for the test indicated therein and after undergoing the said test, she must be allowed to leave India in case she has not been arrayed as an accused in Crime No.118 of 2000 of Puttaparthi (U) Police Station. No costs.

_____

B.SESHASAYANA REDDY, J.

Dated: 18th August, 2005.

cs